

Senate Bill No. 147

Passed the Senate June 4, 2001

Secretary of the Senate

Passed the Assembly August 30, 2001

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day of
_____, 2001, at _____ o'clock __M.

Private Secretary of the Governor

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CHAPTER _____

An act to add Section 1198.6 to the Labor Code, relating to employee records.

LEGISLATIVE COUNSEL'S DIGEST

SB 147, Bowen. Employee computer records.

(1) Existing law does not prohibit an employer from monitoring the electronic mail or other computer records generated by an employee.

This bill would prohibit an employer from secretly monitoring the electronic mail or other computer records generated by an employee. The bill would provide that an employer who intends to inspect, review, or retain any electronic mail or any other computer records generated by an employee shall prepare and distribute to all employees the employer's workplace privacy and electronic monitoring policies and practices. The bill would provide that, upon distribution, the employer shall require every affected employee to sign or electronically verify that he or she read, understands, and acknowledges, receipt of the policies and practices. The bill would apply to specified public entities.

Because a violation of the bill would be a misdemeanor under existing law, the bill would impose a state-mandated local program by creating a new crime.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. Section 1198.6 is added to the Labor Code, to read:

1198.6. (a) (1) An employer may not secretly monitor the electronic mail or other computer records generated by an employee.



(2) For purposes of this subdivision, “secretly monitor” means to inspect, review, or retain electronic mail or other computer records in a manner that does not comply with the policies and practices that are disclosed to the employee pursuant to this section.

(b) An employer who intends to inspect, review, or retain any electronic mail or any other computer records generated by an employee shall prepare and distribute to all employees, by hard copy or electronic notice, upon the commencement of employment for new employees, or by March 1, 2002, for existing employees, the employer’s workplace privacy and electronic monitoring policies and practices. Upon distributing these policies and practices, the employer shall require every affected employee to sign or electronically verify that he or she read, understands, and acknowledges receipt of the policies and practices. An employer shall be deemed in compliance with the notice requirement of this subdivision as to any employee if the employer includes the notice in the employee handbook and receives written or electronic verification that the employee received, read, and understands the notice, or electronically posts the notice on the employee’s computer screen and receives electronic verification that the employee received, read, and understands the notice. If an affected employee to whom the policies and practices have been provided pursuant to this subdivision declines to sign or electronically verify that he or she read, understands, and acknowledges receipt of the policies and practices, the employer may comply with the requirements of this subdivision by having the person who provided the policies and practices to the affected employee sign and retain a statement to that effect and provide a copy of that statement to the affected employee.

(c) For purposes of this section, “employee” includes, but is not limited to, any individual employed by the state or any organizational subdivision thereof, any county, city, or city and county, whether organized under the general law or a charter, any school district, community college district, the University of California, or any political subdivision or public corporation of the state.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school



district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.



Approved _____, 2001

Governor

